

MINUTES
TOWN OF FREDERICK
PLANNING COMMISSION
Frederick Town Hall
February 17, 2009
7:30 p.m.

Attendance: Vice Chair Donna Hudziak, Donald Hard, Alan Blair and John Loveless were present. Also present were Planning Director Jennifer Simmons and Planner Todd Tucker.

ROLL CALL: Vice Chair Hudziak called the regular meeting to order at 7:30p.m. Roll call was taken; Chairman Jeff Roehrig was absent.

ADDITIONS TO THE AGENDA: There were no additions to the agenda.

APPROVAL OF MINUTES FROM THE DECEMBER 16, 2008 MEETING:

Commissioner Loveless made a motion to approve the minutes from the December 16, 2008 meeting. Commissioner Hard seconded the motion. All in favor, motion carried.

PUBLIC HEARING TO CONSIDER A ZONING AMENDMENT FOR LOTS 3, 5 AND 6 OF THE EVEZICH SUBDIVISION:

Planner Todd Tucker presented the Staff Report by stating that the applicant has requested approval to rezone an 8.13 acre site (lots 3, 5 and 6 of the Evezich Minor Subdivision) from R-1 (Residential) to C-D (Downtown Commercial) to allow for a proposed Church as a use by right and for related mixed uses.

The Applicant/Owner of this property is First Street Frederick, LLC, Scott Asper and the Agent is Felicia Smith-Graybeal.

The surrounding land uses and zoning are Residential Evanston, Unincorporated Weld County, Agricultural to the North; Residential, Frederick Town Site, Town of Frederick R-1 to the South; Public, Park View Estates, Town of Frederick R-1 to the East; and Residential Evanston, Unincorporated Weld County, Agricultural to the West.

Frederick Episcopal Church requests that the zoning for the 8.13 acre site be changed from R-1 to Downtown Commercial (C-D) to allow for the proposed church (St. Brigit) and the anticipated ancillary uses as a use by right. While the church has not developed a site plan for the site or determined all of the anticipated uses, they have proposed to convert an existing barn to worship space and add parking for 20 cars (three handicap spaces). Note that while a parking lot is not a permitted principle use in the C-D district, staff recommends that the proposed parking lot be combined with the church site to combine the necessary facilities to support the proposed Church and to promote contiguity of uses. Furthermore, landscaping should be installed to ensure conformance with code requirements once the parking area is installed.

The Episcopal Church also indicates the desire to build a future church, host a youth group room, a community meeting room, a day care, and may provide other community related uses commonly associated with church functions. The proposed uses will be determined by the community needs as determined by the Church. To ensure that the anticipated uses are permitted, the Church has proposed a zoning change from R-1 to C-D. In examining the zoning code, there are various uses permitted by right or conditional uses for each zone as shown in Table 1:

Worship space/youth group – Conditional Use in R-1/Use-by-right in Downtown Commercial; Child care center – Not permitted in R-1/Use-by-right in Downtown Commercial; Community meeting/facility – Conditional Use in R-1/Use-by-right in Downtown Commercial; and Private school – Conditional Use in R-1/Conditional Use in Downtown Commercial.

While not noted in the application, many churches operate thrift stores as a community benefit and for additional revenue. Under the Code, a thrift store (shopping less than 5,000 sq. ft.) would be a use-by-right in the C-D zone that would not be permitted in the R-1 zone. The approval of the zoning change would allow the church and certain ancillary uses as a use by right, as noted in Table 1 above and further detailed in the Land Use Code. However, even as a use-by-right all development would be subject to the requirements of the Land Use Code, such as Site Plan Review, Conditional Use Review, etc.

In summary, worship space and community facilities, such as the Church, meeting room and youth group rooms are permitted as a use-by-right in the C-D zone and by Conditional Review in the R-1 zone. Therefore, there are efficiencies for the proposed Church if the site is rezoned to C-D. This is similar to the request approved in 2007 for Rocky Mountain Christian Church on Colorado Boulevard.

The application was referred per the provisions of the Land Use Code. A petition was received which was signed by 36 people representing 25 homes (20 homes within Frederick's municipal boundary), indicating opposition to the proposed commercial zoning.

Stall also received five phone calls expressing opposition to having more churches in the community. While it is uncertain if these phone calls were from the same people that signed the petition, two calls came from Loraine Williams. Ms. Williams expressed the opinion that we need more retail, not more churches in the Town, she also expressed the desire that the Catholic Church be permitted to expand in the future.

The public hearing was noticed in accordance with the provision of the Land Use Code.

Section 4.7.2.d of the Land Use Code sets the review criteria for amendments to the official zoning map.

This request is to rezone an area due to changing conditions, to allow for a proposed church.

The subject area is currently zoned R-1. The mapped Comprehensive Plan has established this location for low density residential Development, however, this site abuts the greater downtown area, several single family homes, a park, a fire station, and the original Town of Frederick town site. There is also a Baptist Church just north of the site. The adjacent original town site has been designated by the Comprehensive Plan for Downtown Commercial uses (C-D zone), while the fire station is a Public Facility, and the park is designated as a Park. The neighboring church (located in the County), is zoned Agricultural. The neighboring church, fire station, and park are community-related facilities similar to the proposed Church. Over time the original town site will transition to the C-D zone. While the proposed C-D zone for this site does not match the Low Density Residential designation shown on the Comprehensive Plan Map, the request is consistent with the policies and goals of the Comprehensive Plan, as well as many existing and anticipated surrounding land uses. Moreover, the zoning change provides for a community-related use (Church) that was not contemplated at the time of adoption of the Comprehensive Plan.

The rezone recognizes surrounding land use activities and provides for changing conditions within a particular area; and provides for a community related use that was not contemplated at the time of adoption of the Comprehensive Plan. Therefore, the request is consistent with two of the criteria for a zoning change. Note that only one of the criteria must be met for approval of the request.

The Planning Commission can consider recommending approval, denial or approval with conditions. Staff recommends that the Planning Commission recommend approval of the proposed rezone from Residential (R-1) to Downtown Commercial (C-D) subject to conditions.

John Thornbury, Chairman of Colorado Episcopal Foundation, addressed the Commission by stating that the foundation was established 25 years ago and there are currently 110 Episcopal churches in Colorado. The foundation felt that the tri-town area was the ideal site for a new church. He said that the foundation has no plans to sell off any of the parcel and will only sell to St. Brigit at their original cost. With regard to the petition, the residents are opposing commercial because the property is surrounded on all sides by residential.

The foundation has invested approximately \$700,000 in the land and it was the Planners who suggested Commercial Downtown zoning. They have plans to put in a community garden, meeting room, pre-school and daycare. They have already received a \$5,000 grant for the community garden.

Mr. Thornbury respectfully requests that the Planning Commission vote to approve this rezone.

Vice Chair Hudziak closed the regular meeting of the Planning Commission and opened the Public Hearing for Frederick Episcopal Church Rezone from R-1 to C-D for Lots 3, 5 and 6 Evezich Minor Subdivision at 7:45PM. Vice Chair Hudziak then asked if there were any comments from the audience.

Eric Valin, resident of Evanston, asked why the church could not wait until after the church was built to request the rezone. That way the residents would be assured that, in fact, a church is going on the property. He is concerned that the rezone would allow any type of commercial to be built if the property were sold as C-D.

Planner Tucker explained that the R-1 zoning does not allow for a church and the Episcopal Church would have to go through the Conditional Use process, or rezone the site. The applicant chose to rezone the site. State Law says that nothing can be built within 350' of gas and oil wells, so the church is already constrained. Other uses are limited by the residential protection standards noted in the code. For example – a bar could not be built on this property because the Code says that a bar has to be 250' from any residential property and the property is roughly 500' wide. The church has the right to utilize their property just as anyone else can, under the provisions of the code, and should be treated as any other property owner.

Felicia Smith-Graybeal addressed the Commission stating that the Church is very proactive about meeting the needs of the community they are in.

Dean Mircus, resident of Evanston, addressed the Commission with concerns about the uses allowed in the C-D zone and said that the only thing not allowed under the R-1 zone is the child care. He also said that the property is 1,000' not 500', so a bar could be built there. He pointed out that comparing this site to Rocky Mountain Christian Church does not work because there is no residential around RMCC. He doesn't feel that this property as Commercial is a good idea and the Town should have gotten input from the public before scheduling this hearing.

Eileen Bisgard stated that the tri-town area needs an Episcopal Church and this congregation is small, but mighty and they are very committed to building this church. She pointed out that the Church has a temporary use to use the garage for services and they are growing very quickly.

Jeff Nieusma told the Commission that he moved to Frederick because of the Church being built here.

The Public Hearing was closed at 8:20PM and the regular meeting of the Planning Commission was re-opened.

Planner Tucker verified that the property is a little over 500', not 1,000' as stated by Mr. Mircus, so the setbacks would be very limited for other uses. A temporary conditional use was permitted by the Building Department for a group gathering so that the church could hold services.

Vice Chair Hudziak suggested that a PUD overlay be put on the property. It would be more time consuming and expensive for the church, but it makes more sense. She has no problem with the church, but doesn't like the commercial zoning.

John Thornbury does not have the authority to make this decision, but would be willing to go back to the foundation for approval. He asked how long this process would delay them.

Cyril Videgar, Legal Counsel for the Town, stated that the temporary use lasts only until the Board of Trustees meets and if the Board denies this use, it will be pulled. With regard to the PUD, the Town has not encouraged PUDs on less than 10 acres.

Vice Chair Hudziak asked how the Town can restrict uses.

Videgar said that the Town can approve rezoning based on use and it can be limited to a specific use. Planning has reviewed this carefully and will restrict the use to a church and ancillary uses.

Planner Tucker told the Commission that all uses are subject to review and a condition use will double the effort. Staff feels that this is not necessary.

Commissioner Blair asked if we can extend their Temporary Use Permit.

Planner Tucker said that the applicant has signed an agreement for Temporary Occupancy with conditions of approval by the Board of Trustees. He also said that the Commission can add PUD as a condition of approval, but Staff does not recommend this if the property is less than 10 acres.

Vice Chair Hudziak would like to file the PUD that speaks to nothing but the use.

Planner Tucker explained that the Church does not know yet what they are going to need.

Vice Chair Hudziak would like to ask for a PUD overlay that limits the use to what they want to do now, but don't make them go through the full PUD process.

Commissioner Loveless made a motion to recommend approval of PCR-2009-02C, "A Resolution of the Planning Commission Recommending Conditional Approval of Frederick Episcopal Church Rezone from R-1 to C-D for Lots 3, 5, and 6 Evezich Minor Subdivision. Commissioner Blair seconded the motion. Commissioners Blair, Loveless and Hard – yes. Vice Chair Hudziak voted no. Motion carried.

PUBLIC HEARING TO CONSIDER ESTABLISHING THE TOWN OF FREDERICK COMPREHENSIVE PLAN AS THE 3-MILE PLAN:

Planner Jennifer Simmons presented the Staff Report by stating that the Town of Frederick originally adopted the Town of Frederick Comprehensive Plan Map on April 20, 2006 and it functioned as the Town's 3-mile plan until its formal designation with Resolution 08-R-017 March 13, 2008. This Resolution would extend the designation for another year.

In March, 2008, the Town of Frederick designated the Town of Frederick Comprehensive Plan Map as the Town's official 3-mile plan with Resolution 08-R-017. This designation complies with Colorado Revised Statute 31-12-105.

As required by State Statute, the Town must designate a 3-mile plan to be followed during the annexation process. The plan must be designated and updated annually. The Town has historically used the Comprehensive Plan Map as its 3-Mile plan.

Because this is an act that affects the Comprehensive Plan, the Planning Commission must review the request before presenting it to the Board of Trustees for ratification on March 10, 2009.

The Planning Commission can vote to approve, deny or approve with conditions. Staff requests that the Commission approve the designation of the Comprehensive Plan map as the 3-mile plan as outlined in PCR-2009-01A.

Vice Chair Hudziak closed the regular meeting of the Planning Commission and opened the Public Hearing to consider designating the Town of Frederick Comprehensive Plan Map as the 3-mile plan at 9:10PM..

There were no comments from the audience.

Vice Chair Hudziak closed the Public Hearing and re-opened the regular meeting of the Planning Commission at 9:10PM.

Commissioner Hard made a motion to recommend approval of PCR-2009-01A, "A Resolution of the Planning Commission Approving the Designation of the Town of Frederick Comprehensive Plan Map as the Town's 3-Mile Plan". Commissioner Blair seconded the motion. All in favor, motion carried.

OTHER BUSINESS:

Planner Simmons pointed out the Unbuilt Dwelling Report in the Commissioner's packets. She told the Commission that this report is updated quarterly and there is a fairly substantial number of lots not yet built.

Planner Simmons went over the upcoming meetings involving the Commission. On Wednesday, February 18, 2009 from 2PM - 4PM there will be a webinar on "Informed Decisions: A Guide to Gathering Facts and Evidence." She encourage all Commissioners to attend, if possible. On Tuesday, April 7, 2009 from 5:30PM - 7:30PM there will be a work session with the Board of Trustees and all other Commissions regarding a Visioning Retreat with Commissions.

The next meeting will possibly be on March 3rd, but we will keep the Commission posted.

With no further business to discuss, the meeting was adjourned.

Donna Hucziak, Planning Commission Vice Chairman

Kathy Larson, Secretary